IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7079 OF 2007

M/s. Mighty Engineers .... Petitioner

versus

Haji Ismail Haji Habib Charity Trust & ors. ..... Respondent.

Mr. Nitin Thakkar Sr. Advocate with Mr. V.A.Gangal i/b Harshad M. Deshpande for the petitioner.
Ms. V.S.Mhaispurkar AGP for Respondents 4 to 6.

CORAM; A.P. DESHPANDE, J.
DATED; 28TH SEPTEMBER, 2007

P.C.;

1. The petitioner in this petition is one M/s. Mighty Engineers. The property in question is owned by a public trust by name Haji Ismail Haji Habib Charitable Trust. The Trust issued a public notice in daily news paper and invited offers from interested parties with a view to sell the said properties. In response to the notice, the Trust had received three offers and the offer of the present petitioner was for Rs. 31 lacs. The offer was thereafter raised to Rs. 54,50,000/-. Finding the offer of the present petitioner highest, the Trust accepted the same in the meeting of the trustees on 13-1-2003 and after

accepting the offer, moved the Charity Commissioner by an application under section 36(1)(a) of the Bombay Public Trust Act. During the pendency of the proceedings, few more parties approached before the Charity Commissioner and on 10-5-2007 the petitioner enhanced its offer upto 3.51 crores. Taking over all view of the matter the Joint Charity Commissioner came to the conclusion that the property in question has definitely more hidden price and thus took a decision to take a bid afresh with a view to fetch fair market price. At that juncture the Tenant's Association had filed a Writ Petition bearing No. 4471/07 claiming a preferential right in favour of the Tenants Association. The said petition came to be dismissed and Joint Charity Commissioner was directed to complete the process. After the order came to be passed on 19-7-2007 by this court, the Joint Charity Commissioner invited fresh bids. The proceedings recorded in the form of an order below Exh.I in Application no. J-4/38/2003, reveals that the highest offer was of one M/s. Tulja Bhavani Developers. M/s. Tulja Bhavani Developers had offered 15 crores plus construction of 1000 sq. ft. area (built up) for the Trust office plus 15,000 sq. ft. built up area. Compared with the said highest bid of M/s. Tulja Bhavani Developers, the present petitioner had offered the amount of Rs.12 crores plus construction of 1000

sq. ft. built up area for the Trust plus 10,000 sq. ft. built up area for community hall. It is thus clear that M/s. Tulja Bhavani Developers offered Rs. 15 crores plus a total 16,000 sq.ft. built up area whereas the offer of the petitioner was 12 crores plus 11000 sq. ft. built up area. As the offer of the M/s.Tulja Bhavani Developers was highest, the same has been accepted by Joint Charity Commissioner and it was directed to deposit a sum of Rs.25% and the same came to be deposited on 6-9-2007.

2. In the above facts and circumstances, the petitioner is challenging the decision of the Joint Charity Commissioner. I do not find any fault with the decision of the Joint Charity Commissioner in accepting the offer of M/s. Tulja Bhavani Developers as the same was the highest offer. The decision of the Joint Charity Commissioner protects the interest of the Trust and the same cannot be faulted.

3. The learned counsel for the petitioner has submitted that the petitioner is ready and willing to enhance its offer and wants to have a proper bidding before this court. While passing the order in the earlier Writ Petition, which is referred to hereinabove, I have observed that the Charity Commissioner must try to attend the finality to the

bidding process as the application is pending for almost four years. Now that a very good offer has been received, I do not see any reason to further continue the said process before this court. In the result the writ petition is summarily dismissed.

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